

**CHIROPRACTIC EXAMINING BOARD
MINUTES
November 17, 2005**

PRESENT: Steven Conway, Char Glocke , Wendy Henrichs,
James Koshick, Steven Silverman, Mania Moore

EXCUSED: None

STAFF PRESENT: Jeff Scanlan, Director of Health Service Professions; Dennis Schuh,
Legal Counsel, Gina York, Bureau Assistant, and Division of
Enforcement and other staff

GUESTS: Jeremy Levin,WI Medical Society; Jason Johns,WPTA/WDA;
Ronald Ehls, Nutrition Dynamics; Christine Lennen, WDA;
Amy Fox, WDA; Gail Underbakke, WDA; Marla Hill, WDA;
Alice O'Connor, AANEM/Murphy Desmond

CALL TO ORDER

Wendy Henrichs, Vice Chair, called the meeting to order at 8:08 a.m. A quorum of six members was present. The meeting was then turned over to Steven Silverman, Secretary, at 8:10 a.m. for the rest of the meeting.

APPROVAL OF AGENDA

Additions to the Agenda:

- Open Session: Under Deliberation of Monitoring Received After the Mailing of the Agenda - Add Name James Mason, D.C.

MOTION: Wendy Henrichs moved, seconded by James Koshick, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 22, 2005

Amendments to the Minutes:

- Page 4: Under heading Discussion Item regarding Adequate Education and Training of Chiropractic Assistants – Delete the first sentence, in the second sentence after the word “concerns” add “regarding the training if Chiropractic Assistants” delete rest of sentence.

MOTION: Wendy Henrichs moved, seconded by James Koshick, to approve the minutes of September 22, 2005 as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

There were two proposed stipulations presented before the Board at today's meeting. Michael Berndt presented the proposed stipulation regarding Scott Bartel, DC case (04 CHI 052) and Jim Polaski presented the proposed stipulation regarding John Nilsson, DC case (03 CHI 059)

PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA

None.

ADMINISTRATIVE REPORT

Jeff Scanlan, Director of Health Service Professions, welcomed the Board to the new meeting space, shared with them the new hotel policy, and provided a handout for their records. He also informed the Board that the Board Member Hotline number is for board member use only. There has been an increasing frequency of non-board members calling in on this number. This is a reminder not to share this number with others. Mr. Scanlan provided a report from Eric Callisto, DOE Division Administrator, which indicated that he has set July 14, 2006, as the deadline for filing or resolving all 2003 cases. Mr. Callisto has set February 10, 2006, as the deadline for the completion of investigation on these same cases. This includes all 2003 cases, including those Medical Examining Board cases that have a statutory deadline that falls after July 14, 2006. This deadline was set with the recognition that many cases are currently in hearing, that the 2003 stack of open cases is very large (app 400), and that you all have worked very hard to move the older cases through the system. It also was set with an understanding of the limits of this type of deadline to further expedite the resolution of cases.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES DENNIS SCHUH

Dennis Schuh, Legal Counsel, reviewed the summary reports with the Board at today's meeting and was available to answer questions related to these reports. Currently, there are three cases before the ALJ for a decision.

**STATUS REPORT ON RULES AND STATUTES
DENNIS SCHUH**

Dennis Schuh, Legal Counsel, reviewed all pending legislation with the Board and informed them of the status of each at today's meeting.

**DISCUSSION REGARDING PROPOSED LEGISLATION BY THE AANEM TO
REVISE STATUTES RELATED TO NEEDLE ELECTROMYOGRAPHY**

Alice O'Connor, AANEM, presented information before the Board regarding the proposed legislation by the AANEM regarding needle electromyography. At this point, the legislature is now looking at this revision to the statutes. AANEM would like to include chiropractic neurologists as they currently are able to do needle electromyography in this new legislation. Dennis Schuh, Legal Counsel, provided guidance and shared with them options to consider regarding these proposed changes. After some discussion, the Board requested Attorney Schuh to work with the drafter of this legislation to ensure the new language addresses the needs and concerns of this Board.

**WISCONSIN DIETETIC ASSOCIATION INPUT AND INFORMATION REGARDING
NUTRITIONAL COUNSELING RULES**

There were several presenters from the Wisconsin Dietetic Association (WDA) at today's meeting. Ms. Lennen, Gail Underbakke, Marla Hill, and Amy Fox provided specific information to the board regarding vitamins and supplements verses nutritional counseling. Dietitians are required to have a two-year degree in nutritional science from an accredited school, an internship of at least 190 hours, pass an examination, and 75 hours of continuing education, which is required every 5 years. In Wisconsin, dietitians are a certified profession and approximately one-third of all dietitians work in a hospital setting. There was detailed information provided on the handling of vitamins, supplements and the potential dangers. Several resources and reference guides are available to assist in the handling of these nutritional items. A handout was provided to the Board, which outlined the language in the budget, various points for completion of the 48-hour postgraduate course, patient use, legislation, legal and ethical issues surrounding dietary supplements.

At the last meeting, the Board approved a scope statement to begin the rule making process relating to new legislation regarding this topic and asked for WDA's input. Chiropractic diplomates require 300 hours of education in specialty areas. Dennis Schuh, Legal Counsel, updated the Board on the various steps in the rule making process at today's meeting for new board members. He also provided the parameters of what would need to be addressed in the new proposed language. After a lengthy discussion, the following action was taken at today's meeting.

MOTION: Wendy Henrichs moved, seconded by James Koshick, to stop the rule making process as it is right now and to approve the WCA and the Northwestern programs to fulfill the certificate requirements.
Affirmed – 3, Opposed – 3. Motion failed.

NUTRITIONAL COUNSELING DISCUSSION ON DRAFT RULE DEVELOPMENT AND COMMITTEE APPOINTMENT

The Board received a copy of a rough draft of the proposed rule at today's meeting. Dennis Schuh, Legal Counsel, highlighted various areas which will need to be addressed in the new rules. The Board made revisions to the draft at today's meeting. Attorney Schuh will make these revisions as indicated and present a new draft for the Board's review at the next Board meeting. The Board also requested to establish a sub-committee to work collaboratively with their legal counsel on the specific language and criteria to be included in the rules.

MOTION: Mania Moore moved, seconded by Char Glocke, to appoint Steven Conway, Wendy Henrichs, and James Koshick to participate in a sub-committee to work on the proposed rules regarding nutritional counseling with Dennis Schuh, Legal Counsel. Motion carried unanimously.

DISCUSSION ADEQUATE EDUCATION AND TRAINING OF A CHIROPRACTIC ASSISTANT

The Board discussed the topic of adequate education and training for chiropractic assistants. The Board expressed concerns surrounding this issue and options available to ensure compliance with Ch 10. The liability at this time lies on the licensed professional.

DISCUSSION RESPONSIBILITIES AND OBLIGATIONS ON INDEPENDENT MEDICAL EXAMINERS (IMES)

Jeff Scanlan, Director of Health Service Professions, shared information he received from FCLB regarding the obligations of Independent Medical Examiners (IMEs). The Board discussed this topic and raised many concerns regarding the protection of the public. The Board requested more information be gathered to address these concerns; such as systems being used that does not meet the minimum standards of care.

PRECEPTORS FOR APPROVALS

The following individuals were presented for approval as preceptors: Thomas P. Donohue, Timothy N. Johnson, Dale J. Strama, Duane D. Jarchow, Christine Krsko, Curt Draeger, Gregory Luke, Carl Miller, Marna Sobhani-Moolla, Dean Willhite, and Adebayo Yusuf.

MOTION: Wendy Henrichs moved, seconded by James Koshick, to deny the preceptor application of Timothy N. Johnson. Motion carried unanimously.

MOTION: Wendy Henrichs moved, seconded by Mania Moore, to approve the preceptors, except Timothy N. Johnson, as presented at the November 17, 2005 meeting. Motion carried unanimously.

PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA

None.

CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL

There were two correspondence presented by Dennis Schuh, Legal Counsel, at today's meeting. The Board provided the input needed and Attorney Schuh will respond on behalf of the Board.

CONSULTING WITH LEGAL COUNSEL

The Board consulted with Dennis Schuh, Legal Counsel, throughout the meeting as needed.

VISITOR COMMENTS

None.

CONVENE TO CLOSED SESSION

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to consult with Legal Counsel regarding the Suit by WCA, deliberate on proposed stipulations, deliberate on proposed administrative warnings, deliberate on monitoring issues, application review, monitoring report and DOE case status reports. Motion carried by roll call vote: Steven Conway-yes; Mania Moore-yes; Wendy Henrichs-yes; Steven Silverman-yes; Char Glocke-yes; and James Koshick-yes.

Open Session recessed at 1:35 p.m.

RECONVENE TO OPEN SESSION

MOTION: Wendy Henrichs moved, seconded by Jeff Koshick, to reconvene into open session at 2:06 p.m. Motion carried unanimously.

MONITORING

**REQUESTING FULL REINSTATEMENT OF LICENSURE
RICHARD HORAITIS, D.C.**

MOTION: Steven Conway moved, seconded by Wendy Henrichs, to deny the request for full reinstatement of licensure regarding Richard Horaitis, D.C. and request him to appear before the Board at the February 2006 meeting. Motion carried unanimously.

**REQUESTING AN EXTENSION
MICHAEL LABLANC, D.C.**

MOTION: Char Glocke moved, seconded by James Koshick, to grant an extension until April 30, 2006 to Michael LaBlanc, D.C. in order to stay in compliance with his Board Order. Motion carried unanimously.

**DELIBERATION OF MONITORING ISSUES THAT MAY BE RECEIVED AFTER
MAILING OF AGENDA**

JAMES MASON, DC

**** This item was informational to the Board. No action needed. ****

STIPULATIONS

SCOTT BARTEL, DC

MOTION: Char Glocke moved, seconded by James Koshick, to adopt the Findings of Fact, Conclusions of Law, Order, and Stipulation, in the matter of Scott Bartel, D.C. Motion carried unanimously.

JOHN NILSSON, DC

MOTION: Wendy Henrichs moved, seconded by Char Glocke, to reject the stipulation in the matter of John Nilsson, D.C. Motion carried unanimously.

**DELIBERATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED
AFTER MAILING OF THE AGENDA**

None.

**DELIBERATION OF PROPOSED ADMINISTRATIVE WARNINGS RECEIVED
AFTER MAILING OF AGENDA**

None.

**DELIBERATION OF PROPOSED FINAL DECISIONS & ORDERS THAT MAY BE
SIGNED AFTER MAILING OF THE AGENDA**

None.

**DELIBERATION OF PETITIONS FOR REHEARINGS RECEIVED AFTER THE
MAILING OF THE AGENDA**

None.

DIVISION OF ENFORCEMENT CASE STATUS REPORT

MOTION: Steven Conway moved, seconded by James Koshick, to close case **05 CHI 023** for no violation. Motion carried unanimously.

MOTION: Char Glocke moved, seconded by James Koshick, to close case **05 CHI 025** for no violation. Motion carried unanimously.

MOTION: Char Glocke moved, seconded by James Koshick, to close case **05 CHI 026** for no violation. Motion carried unanimously.

MOTION: Mania Moore moved, seconded by James Koshick, to close case **05 CHI 046** for no violation. Motion carried unanimously.

MOTION: Mania Moore moved, seconded by Char Glocke, to close case **05 CHI 049** for no violation. Motion carried unanimously.

APPLICATION REVIEWS

None.

OTHER BOARD BUSINESS

The acting Chair at today's meeting appointed Mania Moore to the screening panel and will replace Susan Feith.

ADJOURNMENT

MOTION: Wendy Henrichs moved, seconded by Steven Conway, to adjourn the meeting at 2:14 p.m. Motion carried unanimously.